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Robert E. Malm

In re Application of:

GREGORY E. JOHNSTON et al.

Serial Number: 09/059,077

Filing Date: 04/09/98

For: MOBILE SURVEILLANCE SYSTEM

Group Art Unit: 2622

Examiner: LUONG T. NGUYEN

Telephone: (703) 308-9297

PETITION PURSUANT TO 37 CFR 1.181

Commissioner for Patents
Office of the Director
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Board of Patent Appeals and Interferences in its decision of Appeal 2007-2749 sustained the Examiner's rejection of claims 1-3, 5-7, 12-14, and 23-25. The Board noted in its decision that "claims 4, 8-11, 15-17, and 22 have been indicated by the Examiner to be allowable subject to being rewritten in independent form." Decision on Appeal, p. 1.

Claims 4, 8-11, 15-17, and 22 rewritten in independent form were subsequently submitted by applicant to the Examiner who should then have issued the application with claims 4, 8-11, 15-17, and 22 (see Manual of Patent Examining Procedure, 1214.06 II). Instead, the Examiner reopened prosecution with the following statement:

The allowable subject matter of claims 8 and 15 as indicated in Office Action made on 12/08/2006 have been withdrawn due to the newly founded (sic) references. 10/06/2009 Office Action, p. 2.

This action by the Examiner violates 17 CFR 1.198 Reopening of Prosecution which states:

When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

The provisions of § 1.114 have to do with a request by the applicant for continued examination and the provisions of § 41.50 have to do with decisions and other actions by the Board, neither of which are relevant in the present case.

Applicant hereby requests that the Examiner be instructed to withdraw the 10/06/2009 Office Action and pass the application to issue with claims 4, 8-11, 15-17, and 22.

Applicant recognizes that the requested actions cannot be undertaken if indeed the features specified in claims 8 and 15 are obvious in view of the prior art, as the Examiner asserts. However, the newly-discovered prior art by the Examiner do NOT disclose the novel features of claims 8 and 15, as we will show below.

Claim 8

Applicant's invention includes a camera attached to a mount assembly that is mounted to a vehicle. The novel feature specified by claim 8 is a ball-plunger for self-locking the mount assembly to the camera. The function of the self-locking ball-plunger is to securely attach the camera to the mount assembly as explained in the specification..

Figure 7 shows the installation action required to place said mobile pan and tilt camera (20) on said mounting assembly (22). Said mobile pan and tilt camera (20) is brought to said mounting assembly (22) and is offset by the pitch of said slotted teeth (38) such that they miss said slotted teeth (71) and said mounting plate (68) moves into cavity in said mobile pan and tilt camera (20). Said mobile pan and tilt camera (20) is then moved relative to said mounting assembly (22) to remove offset of said slotted teeth (38 & 71). This last sliding action engages said electrical male signal connector (40) with said electrical female signal connector (65) and said ball-pin plunger (36) drops into said locking hole (69). From operator action, said security fastener (35)

engages said threaded flange (66) to provide secondary mechanical engagement of said mobile pan and tilt camera (20) and said mounting assembly as well as security from vandals. Said mobile pan and tilt camera (20) is now ready for operation.

Specification, pp 17-18.

The Examiner cites a nylon ball plunger used in the Bigley, Jr. et al. (Pat. No. 5,816,128) invention as being the equivalent of applicant's ball-plunger. It is not. The Bigley nylon ball-plunger is used as a holding means (NOT a locking device) in a device for severing flexible polymeric tube, pipe, or tubular extrudate. Bigley describes the function performed by the nylon ball-plunger as follows:

For safety and to hold the blade holder (13) in various positions, there are machined into the blade attachment part of the blade holder (13b) three depressions (17) which are at angles of 0 degrees, 45 degrees, and 90 degrees to the position of the blade holder (13) when the blade holder handle (13a) is parallel to the base plate (1). These depressions (17) are machined at a distance equivalent to the distance between holes 6 and 10. The nylon ball plunger (7) will then engage one of the depressions (17) so as to hold the blade (14) at one of three angles (not shown), but allow it easily to be released for severing purposes.

Bigley, Jr. et al., col. 6, lines 57-67.

The Bigley nylon ball plunger does not and could not perform the locking function specified for the ball-plunger of applicant's claim 8. Applicant's ball-plunger of claim 8 is not an obvious feature in view of Bigley, Jr. et al.

Claim 15

The novel feature of applicant's invention specified in claim 15 is a bimetal heat sink for camera power supply temperature control. This clever device is described in the specification as follows:

Inside said camera housing (32) is a camera cavity (88) where the temperature and humidity should be controlled to gain the best performance from a camera (150) and the optics. Figure 8 is a cross-section drawing noted as A-A in figure 3d. A temperature control system is comprised of a voltage regulator (81), a bi-metal heatsink (80), and said camera housing (32). Said voltage regulator (81) provides stable electrical power to said camera (150) and from this, generates heat as a byproduct. Said bimetal heatsink (80) provides a thermal path for heat from regulator to pass to the airspace of said camera cavity (88). From cold conditions in said camera cavity (88), said bimetal heatsink (80) is a distance from said camera housing (32). As said voltage regulator (81) and said camera cavity (88) rise in temperature, said bimetal heatsink (80) will begin to flex. The temperature set-point for said camera cavity (88) is determined by the size, weight, and type of metals combined to make said bimetal heatsink (80) where, at the optimal temperature set-point for said camera (150) and optics operation, said bimetal heatsink (80) flex's to engage said camera housing

(32). Said camera housing (32) is aluminum or other thermally conductive material will provide a much greater capacity for conducting heat from said voltage regulator (81) and said camera cavity (88). When the temperature in said camera cavity (88) and voltage regulator (81) begin to cool, said bimetal heatsink (80) relaxes and loses direct contact with said camera housing (32) enabling said bimetal heatsink (80) to increase in temperature and add heat to said camera cavity (88).

Specification, pp 18-19.

The Harvey invention (Pat. No. 5,017,954) is a camera shutter with a thermal actuator. The actuator is operated by a user to initiate an exposure cycle which results in the taking of a picture. The operation is described in Harvey as follows:

Depression of shutter aperture 20 has caused circuit 29 to discharge capacitor 31 through the bimetallic element 18 which immediately bends to the position shown in FIG. 4, swinging closing blade 15 counterclockwise to a blocking position over exposure aperture 13. This terminates the exposure.

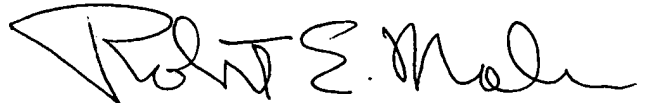
When exposure actuator 20 is released, spring 22 moves the actuator upwardly, thereby moving heat sink 28 into contact. This movement of the actuator moves heat sink 28 upwardly into contact with the underside of bimetallic element 18, thus draining heat from the element 18 and at the same time urging element 18 toward its FIG. 1 position.

A bimetallic element which dumps heat into a heat sink during a camera exposure cycle is not the bimetal heat sink that claim 15 specifies. The functions performed by Harvey's bimetallic element of blocking and unblocking the light path by the bending and unbending of a bimetallic element is different from the functions performed by applicant's bimetal heat sink of utilizing heat from the camera power supply in controlling the temperature of the camera cavity.

The claim-15 bimetal heat sink is NOT obvious in view of Harvey's bimetallic element which is not a heat sink.

The requirements of 37 CFR 1.198 and the fact that the Examiner's newly discovered references do not disclose the novel features of claims 8 and 15 justify the immediate passing to issue of the application with claims 4, 8-11, 15-17, and 22 and such action is respectfully requested.

Respectfully submitted,



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